

## UNITED STATES DISTRICT COURT

for the  
District of OregonFILED  
DEC - 5 2008

United States of America )

v. )

Terrell Wayne Overton )

Case No: CR 04-293-01

USM No: 67963-065

Date of Previous Judgment: July 29, 2005

Stephen R. Sady

(Use Date of Last Amended Judgment if Applicable)

Defendant's Attorney

## Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has

IT IS ORDERED that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 140 months months is reduced to 120 months.

## I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: 31Amended Offense Level: 31\*Criminal History Category: VICriminal History Category: VIPrevious Guideline Range: 188 to 235 monthsAmended Guideline Range: 188 to 235 months

## II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

☐ The reduced sentence is within the amended guideline range.

☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

X Other (explain): The previous term of imprisonment was less than the guideline range because I imposed a non-career offender sentence due to the nature and age of the convictions. The reduced sentence is comparably less than the amended guideline range would be without the career offender enhancement. \*The base offense level should be reduced to 30, but the career offender adjustment results in an adjusted offense level of 34. The total offense level is 31 with acceptance of resp.

## III. ADDITIONAL COMMENTS

Although I was asked at the previous sentencing hearing to consider the disparity between sentences for cocaine base versus powder cocaine, I explicitly declined to do so. Overton's initial sentence was "based on" a sentencing range that has been lowered by Amendment 706 and I have discretion to reduce his sentence pursuant to 18 U.S.C. § 3582.

Except as provided above, all provisions of the judgment dated July 29, 2005 shall remain in effect.


IT IS SO ORDERED.

Order Date:

12/5/08

Effective Date:

(if different from order date)

  
Judge's signature

Printed name and title